PRE-APPEAL BRIEF REQUEST FOR REVIEW (filed with the Notice of Appeal)	Docket Number 042933/319992
Application Number 09/753,844	Filed January 3, 2001
First Named Inventor Stephan Meyers	
Art Unit 2174	Examiner Vu, Thanh T.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

Respectfully submitted,

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Attachment
Reasons for Requesting Pre-Appeal Brief Request For Review

I. Claims 1-3, 14-15, 19-23, 25-28 & 29 are not obvious over Lynn, Humes, Swift & Crawford

Claims 1-3, 14-15, 19-23, 25-28 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lynn (U.S. Patent No. 6,595,859), Humes (U.S. Patent No. 5,996,011), Swift (U.S. Patent No. 6,895,111) and Crawford (U.S. Patent No. 6,781,608). Claim 1 requires, "[a] system ... comprising," *inter alia*, "processing ... image data, wherein, for each of the plural pixels, said *image data comprises ... first and second* portions ... *linked together*, the *first portion* including *payload data* and the *second portion* including *metadata*, wherein ... payload data comprises content for the pixel and ... *metadata comprises a value* selected from a predefined set of values *which classifies the pixel independently from ... other pixels, ... each of the ... pixels are individually classified* according to a *particular metadata value* selected from the ... set of values, ... said integrated circuit comprising: *a filter* for *obscuring the content* of *only* a plurality of pixels that has *a metadata value* that *exceeds a discretionary threshold* value without preventing the display of the content of the remaining plurality of pixels that *does not have a metadata value* that exceeds the discretionary threshold value."

Applicant submits that the combination of Lynn, Humes, Swift and Crawford does not teach or suggest at least the above recitations of claim 1. As pointed out in the Responses filed January 12, 2007 and June 25, 2007, nowhere in the cited portion of Lynn, or any other portion of the combination is there any teaching or suggestion relating to an integrated circuit which processes image data, for *each of the plural pixels*, comprising first and second portions that are linked together, as required by claim 1. At best, Lynn, either individually or in combination with Humes, Swift, and Crawford, merely discloses that a user/player clicks on a pixel or image area of the game page and that this pixel is "compared against stored x-y coordinates for a winning pixel ... location(s)" so that a player can win a prize. (Col. 1, lines 53-61 of Lynn)

In the Advisory Action, the Examiner again asserts that Lynn teaches "a plurality of pixels having a first portion ... including payload data and the second portion including metadata" because column 1, lines 50-67, column 3, lines 30-41 and column 4, lines 10-24 of Lynn allegedly discloses "payload data: a prize available at a particular coordinate (pixel)" and "metadata: x-y coordinates for winning [a] pixels." Applicant respectfully disagrees and submits

that the Examiner is giving the combination of references credit for more than they actually teach. As pointed out in the Responses filed January 12, 2007 and June 25, 2007, column 1, lines 43-67 of Lynn in contrast to claim 1, at best, discloses that Lynn relates to an Internet marketing game for promoting access to a web site which hosts the game and for keeping potential consumers occupied on the web site for exposure to several different advertising spaces. Lynn explains that the "game is centered around 'a point and click' system in which a … display is provided which includes an image made up of a large number" of pixels. Lynn further describes that a player moves a cursor around the image and randomly selects a pixel or image area on the image. "The x-y coordinate location of the pixel or image area is then compared against stored x-y coordinates "for winning pixel or image area location(s)." Column 3, lines 7-25 of Lynn, at best, explains that "[t]he rules of the game dictate that only pixel or image areas selected within the image boundaries can be [a] winning" location(s) "e.g. … tree foliage."

Column 4, lines 10-24 of Lynn, at best, describes that if a request is a game request "in the form of a code including a selected (x,y) pixel or image area coordinate location on the tree, the specific game situation for which the request was generated" is invoked (See FIG. 1b of Lynn) and also explains that "the selected pixel or image area location is compared against the winning pixel or image area locations for the prize list for that time period of order to determine" if the selection is a winner.

Nowhere in the cited portion of Lynn, or any other portion of the combination, is there any teaching or suggestion that "*each* of the *plural pixels*," of the Internet Marketing Game of Lynn, comprise at least first and second portions of image data that are linked together, the *first portion* including *payload* data … wherein said *payload data* comprises *content* for the pixel. As noted above the Examiner relies on a "prize … at a … coordinate (pixel)" as corresponding to the claimed payload data. Contrary to the Examiner's assertion, Lynn does not teach or suggest any pixel comprising any data relating to a prize (alleged payload data) which comprises content for the pixel, as required by claim 1. In fact, Lynn does not disclose any data of a pixel that identifies a prize. Rather, the pixel selected by the player is compared against stored x-y coordinates to determine if the selected pixel is a winning pixel based on a prize list for the time period. Lynn does not disclose that the stored x-y coordinates which indicate a winner are actually stored in a respective pixel either. Since stored x-y coordinates identify if the player is a winner, there is simply no teaching or suggestion in Lynn relating to any pixel that comprises

data relating to a prize (alleged payload data) which comprises content for the pixel, as required by claim 1. Also, Lynn does not disclose that the prize (alleged payload data) comprises *content for the pixel*, (as claimed) but rather at best identifies the prize (e.g., $20). (Col. 5, line 43) Moreover, claim 1 recites that "*each* of the *plural pixels* … comprises … payload data [which] comprises content." Lynn in contrast to claim 1 does not teach or suggest that each pixel is a winning pixel corresponding to a prize. Instead, Lynn, at best, discloses that an "x-y coordinate location of the pixel," i.e., a single pixel corresponds to a winning pixel. (Col. 1, lines 56-57)

Moreover, claim 1 recites "*metadata* comprises a *value selected* from *a predefined set of values* which *classifies the pixel independently* from *other pixels*." As noted above, on pg. 2 of the Advisory Action, the Examiner cites to and relies on column 1, lines 50-67 and column 4, lines 10-24 of Lynn as disclosing "x-y coordinates as the winning pixels" corresponds to the claimed metadata. Applicant disagrees. Nowhere in the cited portion of Lynn or any other portion of the combination is there any teaching or suggestion that the "x-y coordinates for [a] winning pixel" (alleged metadata) "comprises *a value* selected from a predefined *set of values* which *classifies the pixel* independently from the other pixels," as required by claim 1. The Examiner merely makes the sweeping assertion that "each winning pixel[] is classified differently from other pixels (non-winning pixel)." Even if this assertion is true, the combination still does not teach the features of claim 1. Lynn, alone or in combination, at best, discloses that the x-y coordinate location of a selected pixel or image area of the Internet Marketing game is compared against stored x-y coordinates for winning pixel or image area locations(s). There is no mention, teaching or suggestion in Lynn relating to any pixel containing any value which classifies the pixel independently from other pixels and there certainly is no teaching or suggestion relating to x-y coordinates (alleged metadata) containing a value selected from a predefined set of values, as claimed. Lynn is altogether silent regarding the makeup of the pixels therein and does not contemplate pixel classification based on values in the pixel. For at least the foregoing reasons, the combination is deficient.

The Examiner correctly concedes that Lynn by itself is deficient but relies on Humes to make up for some of the deficiencies of Lynn and asserts that Humes in combination with Lynn teaches a filter for blocking the content of only a plurality of pixels that has a metadata value that exceeds a discretionary threshold value without preventing the display of the content of the plurality of pixels that does not have a metadata value that exceeds the discretionary threshold

value. On pg. 3 of the Advisory Action, the Examiner continues to rely on "col. 3, lines 5-9" of Humes, in combination with Lynn, Swift and Crawford, as teaching the above features of claim 1. Applicant again disagrees.

Humes, at best, discloses word based and text-based filtering. Humes merely discloses filtering which blocks the words and text of a web-page from being sent and displayed to a user's computer or alternatively blocks the web page altogether, if a final score for the web page exceeds a threshold, as discussed above. Nowhere in the cited portion of Humes (or the combination) is there any teaching or suggestion pertaining to any pixel having a metadata value and there certainly is no teaching or suggestion of a pixel that has a metadata value that may exceed a threshold value either, as required by claim 1. Col. 3, lines 50-51 of Humes, at best, discloses that "each word in the dictionary [i.e., not the pixels of the web page] has a number of variables" which may indicate whether to replace the word on the web page with a … replacement filler (e.g. "replac[ing] objectionable word 'darn' for 'damn'"—Col. 7, lines 51-53 of Humes) or an innocuous filler (e.g., "- - -"), irrespective of any comparison to a threshold value. Col. 7, lines 55-59 of Humes explains that "if the total score of the web page exceeds the predetermined threshold, e.g., 50, then the entire page is replaced with a 'FORBIDDEN' page." Humes, at best, discloses a total score of the web page is compared to a predetermined threshold and not a metadata value of each of a plurality of pixels. A filter blocking portions of a web page wherein the web page consists of a plurality of pixels simply does not teach or suggest, "a filter for obscuring the content of *only* a plurality of *pixels* that *has* a *metadata value* that *exceeds* a discretionary *threshold value*," as required by claim 1. In other words, blocking portions of a web page based on a total score does not teach or suggest blocking one or more specific pixels having individual values that exceed a threshold value.

The Examiner correctly concedes that Lynn and Humes are deficient but relies on Swift to make up for some of the deficiencies of Lynn and Humes. On pg. 3 of the Advisory Action, the Examiner continues to rely on column 3, lines 10-47, FIGS. 2 and 3, threshold 190 of Swift, in combination with Lynn, Humes and Crawford as teaching features of claim 1. Applicant again disagrees. Col. 3, lines 10-47 of Swift, at best, discloses a "computer system … with … programming to evaluate spectral components of each pixel to classify" each pixel as not representing human skin (NS) or possibly representing human skin (PS). Given that Swift discloses a program of a computer system that evaluates spectral components of each pixel in

order to classify each pixel "based on the application of rules," Swift, either individually or in combination simply does not teach or suggest that each pixel has metadata comprising *a value* which classifies the pixel independently from other pixels, and there certainly is no teaching or suggestion, relating to each pixel, disclosed therein having metadata comprising *a value* that exceeds a *discretionary threshold value*, as claimed. Rather, FIGS. 2-3 of Swift merely relate to a "WEB PAGE EVALUATION" routine 130 and a "GRAPHIC IMAGE FILE ANALYSIS" routine 160, respectively. Col. 8, lines 35-43 of Swift, which relates to FIG. 3, explains that the spectral components of a graphic image are evaluated by the routine 160, i.e., program to classify each pixel as a 'NS" pixel or a "PS" pixel. Any classification of pixels in Swift is generated on the basis of a program and not on the basis of any pixels that contain metadata having a value for classification and another value that is compared to a threshold value. As known to skilled artisans, spectral components of a pixel do not disclose metadata having a value that classifies a pixel and a value that is compared to a threshold value either.[1] Applicant notes that the threshold 190 (alleged discretionary threshold value) is being compared to the results of a statistical analysis 180 and is not being compared to a metadata value of pixel, as required by claim 1.

On pg. 3 of the Final Office Action, the Examiner relies on Crawford as disclosing a "technique for obscuring the content of the image data." Even assuming *arguendo* that Crawford teaches obscuring content of an image, the combination still does not teach or suggest all of the features of claim 1 because Crawford does not make up for the deficiencies of Lynn, Humes and Swift either alone or in combination. For at least the foregoing reasons, the combination is deficient and does not teach or suggest all of the features of claim 1. Applicant therefore respectfully requests reversal of the § 103(a) rejection of claim 1 and its dependent claims 16 and 25.

Since claims 3, 14, 19 and 29 contain features that are analogous to, though not necessarily coextensive with, the features recited in claim 1, Applicant submits that claims 3 and 14 and their respective dependent claims 5, 17, 26, 15, 18, and 27 as well as claims 29 and 19 and its dependent claims 20-24 and 28 are patentable at least for reasons analogous to those submitted for claim 1. Accordingly, for all the reasons discussed above, Applicant respectfully requests that the rejections of claims 1, 3, 5 and 14-29 be reversed.

[1] See FIG. 2 of the present application & lines 1-7 of the specification which demonstrates that the RGB bits are not the same as metadata having a value for classification of a pixel.